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DATE MAILED:

THIS IS A COMMUNICATION FROM THE EXAMINER CHARGED WITH THE RESPONSIBILITY OF THE COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948.                  |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.      | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/> _____   |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-10 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 1-10 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☒ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☒ been received ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

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EXAMINER'S ACTION

Serial Number: 08/285,<sup>015</sup>~~105~~

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Art Unit: 1206

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-10 are rejected under 35 U.S.C. § 103 as being unpatentable over Wairaevens et al ('474) in view of Rao (WO 89/12614).

Wairaevens et al disclose a liquid phase process wherein vinylidene chloride is reacted with HF in the presence of a liquid medium which is a saturated halogen containing hydrocarbon under conditions of temperature and pressure included by the instantly claimed process and further discloses the relative amounts of solvent and reactants required by the instant claims. (See the claims and Examples)

Wairaevens et al differ from the instantly claimed process only in the use of a different and analogous starting material.

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Art Unit: 1206

The application of the old process of Wairaevens et al to the analogous starting material of the instantly claimed process to obtain a result consistent with the teaching of Wairaevens et al would have been obvious to one of ordinary skill in the art. In re Durden, 226 U.S.P.Q. 339.

The starting material of the claimed process and that of Wairaevens et al are analogous in that both are chlorine containing olefins wherein the chloro group is adjacent to the unsaturation.

The result obtained by Wairaevens et al is consistent with the result obtained by the claimed process in that in both cases a fluorine group replaces one chloro group and a saturated product is produced.

The motivation for using the analogous starting material of the claimed process in the Wairaevens et al process is derived from the reasonable expectation of obtaining a known useful product.

The disclosure of Rao illustrates the fact that the starting materials are analogous in that vinyl chloride and vinylidene chloride are both preferred starting materials in a similar liquid phase reaction with HF to produce analogous products. (col. 3, lines 6+).

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Art Unit: 1206

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan M. Siegel whose telephone number is (703) 308-4692.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235.

A.M.S.  
November 16, 1994

  
**ALAN M. SIEGEL**  
**PRIMARY EXAMINER**  
**ART UNIT 1206**